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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 26, 1975

alc 75-0393

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer
 Department of State Council on Wage and
 Department of the Treasury Price Stability
 Department of the Interior Council on International
 Council of Economic Advisers Economic Policy
 Department of Defense Central Intelligence
 Department of Commerce Agency
 National Security Council

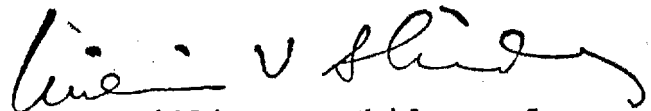
Subject: GSA's draft bill "To authorize the disposal of
 sperm oil from the national stockpile, and for
 other purposes."

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

(xx) To permit expeditious handling, it is requested that your reply be made within 30 days.

() Special circumstances require priority treatment and accordingly your views are requested by

Questions should be referred to Mike Fasano
(395-6156) or to Ina Garten (395-3856),
the legislative analyst in this office.



William V. Skidmore for
Assistant Director for
Legislative Reference

Enclosures

Honorable Carl B. Albert
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Transmitted herewith for referral to the appropriate committee is a draft bill "To authorize the disposal of sperm oil from the national stockpile, and for other purposes".

The sperm oil was acquired by General Services Administration (GSA) during the period of January 1948 through June 1952 to meet the stockpile objective of twenty-three million four hundred thousand pounds established by the Office of Emergency Preparedness for the strategic and critical materials stockpile for use in time of national emergency.

In September 1972, the Office of Emergency Preparedness determined that sperm oil was no longer needed for stockpile purposes and requested GSA to draft a plan of disposal for the oil. Thereafter, GSA pursuant to the requirements of 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 285(a)) published notice of the proposed disposition of the sperm oil in the Federal Register on January 9, 1973. Following the required statutory period of six months, the sperm oil was offered for sale and two contracts were entered into, one with Werner G. Smith, Inc. on January 31, 1974, for 16,269,774 pounds of sperm oil and the other with Scandinavian Oil Company, Inc. on December 27, 1973, for 7,174,553 pounds.

On December 19, 1974, we received an opinion from the Assistant Attorney General, Office of Legal Counsel, Department of Justice (copy enclosed), that the two contracts were subject to the Endangered Species Act of 1973 and were prohibited by it. Up to the time of the receipt of the opinion, GSA had delivered 6,439,835 pounds of sperm oil under the Werner G. Smith, Inc. contract and 1,993,849 pounds under the Scandinavian Oil Company, Inc. contract. GSA has since suspended all deliveries of oil under these contracts pending resolution of the problem. The value of the material remaining undelivered to Werner G. Smith, Inc. and Scandinavian Oil Company, Inc. under the contracts is approximately \$1,728,615 and \$984,876, respectively.

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Werner G. Smith, Inc. advises us that the ban on the sale of sperm oil is tying up \$600,000 of its working capital in the CSA oil at its plant; that if the ban continues, the market for sperm oil will be ruined and its customers will never return to using sperm oil. Consequently, the company could be ruined. Both companies inform us that to stop deliveries of sperm oil under the contracts will cause a great hardship to the industry that uses sperm oil. We are advised that industry is tied to certain product formulations for using sperm oil and it would take a period of months to make up a different formula to incorporate a substitute material. Furthermore, as mentioned above, the sperm oil market will be lost and it will be extremely difficult for CSA to dispose of the Government sperm oil.

Section 1 of the bill would confirm the authority of the Administrator of General Services to dispose of the approximately twenty-three million four hundred thousand pounds of sperm oil pursuant to the notice published in the Federal Register on January 9, 1973 (38 F.R. 1157). The notice, published in the Federal Register pursuant to Section 3(e) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(e)), authorized the disposal of the material at the expiration of the six-month period following such publication (July 9, 1973).

Section 2 of the bill would provide retroactive recognition of contracts entered into subsequent to July 9, 1973, making such contracts effective as of the dates they were entered into and that such contracts are deemed to be in full force and effect.

Section 3 of the bill would exempt the sperm oil covered by the bill from the applicability of the Endangered Species Act of 1973.

It is our opinion that since the Government sperm oil has been held in the stockpile for over twenty years, this bill in no way frustrates one of the purposes of the Endangered Species Act which is preventing the extermination of sperm whales. The proposed legislation is necessary for the Government to reduce its unneeded assets to cash receipts.

Enactment of this bill will not require the expenditure of additional Federal funds.

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The Office of Management and Budget has advised that there are no objections to the submission of the legislative proposal to the Congress and that the enactment of this bill would be consistent with the Administration's objective.

Sincerely,

2 Enclosures

A BILL

To authorize the disposal of sperm oil from the national stockpile, and for other purposes.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled, That
the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, the approximately twenty-three million four hundred thousand pounds of sperm oil held on July 9, 1973, in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h). Such disposition shall be made under the terms of the notice published in the Federal Register on January 9, 1973 (38 F.R. 1157), pursuant to the provisions of Section 3(e) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(e)).

SEC. 2. Any contract heretofore entered into by the Administrator for the sale of the material covered by this Act pursuant to the notice referred to in Section 1 shall be effective as of the date such contracts were entered into and such contracts shall be deemed to be in full force and effect.

SEC. 3. The provisions of the Endangered Species Act of 1973 shall not apply to the material covered by this Act.